

REMARKS

Applicants previously submitted a Declaration of David Elliot Under 37 C.F.R. § 1.131 demonstrating that an antiperspirant product that was an embodiment of (then pending) claims 1-13, 16-56, and 60 of the application was made prior to November, 2000. That was before the publication date of Banowski et al., DE 199 21 183 ("DE '183", Ref. AL). As a result, DE '183 did not qualify as prior art to claims 1-13, 16-56, and 60 under 35 U.S.C. § 102(a). See the enclosed copies of the Declaration of David Elliott and the Information Disclosure Statement filed with the Declaration on April 23, 2001.

DE '183 is the priority document for Banowski et al. (WO 00/67712), which published on November 16, 2000 and has now been cited against claims 1, 2, 6-9, 12, 13, 16-18, 21-25, 28-33, 35-39, 41-44, 47-51, and 54-56 under 35 U.S.C. § 102(a). The previously submitted Declaration of David Elliott is sufficient to establish that Banowski et al. (WO 00/67712) does not qualify as prior art under 35 U.S.C. § 102(a) with respect to these claims.

Look et al., US 2002/0041788 ("Look") has been cited against claims 1, 2, 5-9, 11-13, 16-18, 20-25, 27-44, 46-51, and 53-57 as the basis for either a lack of novelty or obviousness rejection. Look claims priority to an application filed on May 31, 2000 and thus potentially qualifies as prior art to the claims in the present application under 35 U.S.C. § 102(e). Look also has been cited in combination with Iovanni against claims 61-65 as the basis for an obviousness rejection.

Claim 2 has been cancelled.

The enclosed Declaration of Cheryl Galante, a co-inventor, demonstrates that embodiments of claims 1, 5-9, 11-13, 16-18, 20-25, 27-44, 46-51, and 53-56 were made prior to May 31, 2000. Thus, applicants submit that Look does not qualify as prior art to these claims under 35 U.S.C. § 102(e). As a result, applicants request that the 35 U.S.C. § 102(e) or 35 U.S.C. § 103(a) rejection of these claims based on Look be withdrawn.

In addition, based on the previously submitted Declaration of David Elliott, as well as the enclosed Declaration of Cheryl Galante, applicants submit that Banowski et al. (WO 00/67712) does not qualify as prior art under 35 U.S.C. § 102(a). As a result, applicants request that the 35

U.S.C. § 102(a) rejection of claims 1, 6-9, 12, 13, 16-18, 21-25, 28-33, 35-39, 41-44, 47-51, and 54-56 based on Banowski be withdrawn.

For purposes of this reply, applicants will assume that Look qualifies as prior art with respect to claims 57 and 61-65.

Claim 57 requires that both the first portion and the second portion of the composition include at least 10% by weight of a hydrophilic vehicle. The "stick deodorants" described by Look that include an antiperspirant salt include two portions. One portion is an ethanol and propylene glycol-based deodorant formulation (see p. 7, Table 8) that includes greater than 10% of a hydrophilic vehicle but no antiperspirant salt. The second portion includes an antiperspirant salt but is not a propylene glycol-based formulation. The second portion, which is not hydrophilic, includes cyclomethicone and stearyl alcohol in addition to the antiperspirant salt. Thus Look, if anything, teaches using a non-alcohol-based formulation for use with the antiperspirant salt. Claim 57 thus is novel with respect to Look and the 35 U.S.C. § 102 rejection based on Look should be withdrawn. In addition, Look does not suggest using an alcohol-based formulation that includes an antiperspirant salt in place of the cyclomethicone/stearyl alcohol-based formulation.

Claim 61 has been cancelled. Claims 63 and 64 depend directly or indirectly from claim 57 and are patentable for at least the same reasons that claim 57 is patentable. Applicants do not agree that a person of ordinary skill in the art would be motivated to apply Iovanni to the deodorant composition in Look. But in any event Iovanni would have no applicability to the cyclomethicone/stearyl alcohol-based portion of the Look composition. Thus, applicants request that the 35 U.S.C. § 103(a) rejection of these claims be withdrawn.

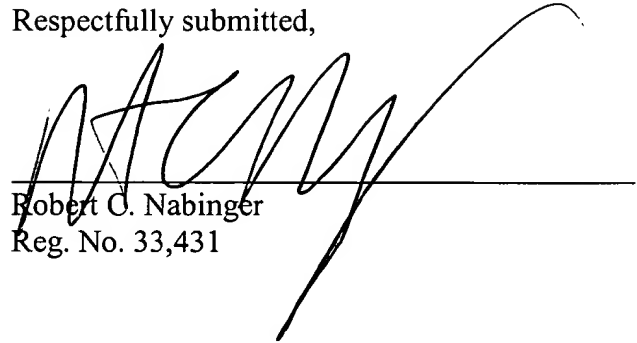
Claims 61 (as amended) and 65 require that both portions include at least 10% by weight of a polyhydric alcohol. These claims are patentable over Look and Iovanni for the same reasons that claims 57, 63, and 64 are patentable over Look and Iovanni. Thus, applicants also request that the 35 U.S.C. § 103(a) rejection of claims 61 and 65 be withdrawn.

Please apply any charges or credits to deposit account 06-1050.

Applicant : Cheryl L. Galante et al.
Serial No. : 09/784,488
Filed : February 15, 2001
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Attorney's Docket No.: 00216-528001 / T-680

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Nabinger', is written over a horizontal line. The signature is stylized with large, sweeping loops.

Robert C. Nabinger
Reg. No. 33,431

Date: August 6, 2003

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